

REMARKS

Favorable reconsideration of this application is respectfully requested. No changes to the claims have been made. Claims 1-9, 11-22 and 24-30 are pending.

PRELIMINARY MATTERS

It is respectfully requested that the finality of the Office Action be withdrawn.

As stated in MPEP § 706.07(a), a second action in any application will not be made final where the examiner introduces a new ground of rejection not necessitated by applicant's amendment of the claims. It further states that the action will not be made final if it includes a rejection on newly cited art, other than information cited in an IDS under 37 C.F.R. §1.75 1.97(c), of any claim not amended by applicant.

In the previous amendment dated January 19, 2005, claim 10 was cancelled and its contents were added to claim 1. This action is fully equivalent to re-writing claim 10 in independent form, and thus claim 1 as presently pending is identical to original (unamended) claim 10. Claim 1 has now been rejected in view of Chang et al. (US 6,848,004), which was newly cited by the Examiner and not in an IDS under 37 C.F.R. §1.75 1.97(c). This rejection was not necessitated by any amendment of claim 1, because claim 1 is identical in scope to original claim 10 – the rejection is equivalent to a rejection of original claim 10 in the first Office Action. Applicant is entitled to respond to this new rejection of claim 1 before such rejection can properly be made final. Thus, withdrawal of finality is respectfully requested. The Examiner is also requested to notify applicant's representative so that docket dates can be adjusted accordingly for subsequent prosecution activities.

Rejection of claims under 35 U.S.C. §102 and 35 U.S.C. §103

In the Office Action, claims 1-9, 11-12, 14-25 and 27-30 are rejected under 35 U.S.C. §102(e) as being anticipated by Chang (US 6,804,004), and claims 13 and 26 are rejected under 35 U.S.C. §103(a) as being unpatentable in view of Chang and Yu (US 6,684,087). These rejections are respectfully traversed.

It is initially noted that the Office Action does not fully address all the features recited in claims 29-30 which were added in the previous amendment. As explained on pages 20-21 of that amendment, these new claims pertain to "bandwidth allocated to the communications channel" and include an element of negotiating with a network communications device that allocates bandwidth in the network, both of which are not included in original independent claims 1, 14, 27 and 28. The Examiner is respectfully invited to re-read claims 29-30 and the remarks on pages 20-21 of the previous amendment. As it stands right now, the rejection in view of Chang is deficient with respect to claims 29-30 because it fails to point out where these two features can be found in Chang, as is required under 37 C.F.R. §1.104, MPEP § 706 and MPEP § 707.07. It is ironic that the current Office Action has been made final while it fails to address the features that were added to the claims. In any event, reconsideration of the rejection of claims 29-30 is respectfully requested.

With respect to the remaining claims, all these claims incorporate, either directly or indirectly, features such as the following which are recited in claim 1:

...

detecting a first event indicating a first anticipated change in a bandwidth requirement of the communications channel, the first event indicating a browser event requiring a browser in the communications device to access content from a remote computer system;

calculating a first new value for a bandwidth setting of the communications channel in response to detecting the first event, the first new value of the bandwidth setting of the communications channel being calculated to accommodate additional bandwidth used to receive the content from the remote computer system; and

adjusting a bandwidth characteristic of the communications channel according to the first new value of the bandwidth setting such that communications channel can accommodate the first anticipated change in the bandwidth requirement.

As described in the application, this method enables a browser-enabled device such as a client in a client-server system to improve performance by adjusting the amount of network bandwidth allocated to the channel between the client and the server, based on what are referred to as "browser events". Examples of such browser events in the specification and claims include parsing content accessed by the browser to detect a reference (claim 11; examples include a URL), and detecting a communications session message generated by the browser on the network (claim 12; examples include a TCP "SYN" message).

It is noted that the claims are concerned with the bandwidth setting of the channel based on an anticipated change in bandwidth requirement. Thus, the claimed method concerns the problem of browser performance being limited by the maximum data rate of the channel as may be enforced by a network communications device, for example, while the anticipated change in bandwidth requirement is taken as a given.

Contrary to the assertions in paragraph 5 of the Office Action, Chang is not seen to teach or suggest the above-noted features of the claims. Chang describes adaptive delivery of rich media content to a user based on real time bandwidth measurement and prediction according to available user bandwidth, and does not operate to adjust a bandwidth characteristic of the communications channel as recited in the claims. As described in column 7 lines 42-53, which are referred to in the Office Action, Chang predicts the available bandwidth for a media content delivery and then fetches the corresponding bandwidth-sensitive track content from the content delivery station, which results in an adaptive bandwidth-sensitive rich media content delivery system. Rather than adjusting the bandwidth of a communications channel based on an anticipated change in a bandwidth requirement, as set forth in the claims, Chang determines how much bandwidth is available and selects content that is appropriate to the available bandwidth. In an example in column 9, Chang describes that either a low-quality picture is selected or a higher quality picture is selected based on whether the predicted available bandwidth is closer to 28 kbps or 56 kbps. There is no suggestion of adjusting the bandwidth of the channel, but rather merely taking the available bandwidth as a given and selecting the appropriate content based thereon.

Based on the foregoing, it is respectfully submitted that Chang does not teach or suggest the above-noted features of the claims, and therefore can neither anticipate the claims under 35 U.S.C. §102, nor render them obvious under 35 U.S.C. §103 when combined with Yu. Accordingly, all the claims of this application are seen to be allowable in view of Chang and the other art of record. Withdrawal of the rejections and allowance of this application are respectfully requested.

If the U.S. Patent and Trademark Office deems a fee necessary, this fee may be charged to the account of the undersigned, Deposit Account No. 50-0901.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 366-9600, in Westborough, Massachusetts.

Respectfully submitted,


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